

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CAROLYN R. KERN,	)	8:04CV566
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
JO ANNE B. BARNHART,	)	
Commissioner of the	)	
Social Security Administration,	)	
	)	
Defendant.	)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Filing 22.) Plaintiff requests fees in the total amount of \$2,340.00, which represents 15 hours of work by her attorney, at an average hourly rate of \$156.00.<sup>1</sup> Defendant does not oppose Plaintiff's application. See filing 23.

The court has determined that Plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and matter remanded for further proceedings; that the application for fees was filed in a timely fashion; and that the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

Plaintiff's application also requests reimbursement of costs in the amount of \$250.00. That request will be denied without prejudice to Plaintiff filing a verified bill of costs as required by NECivR 54.1(b).

---

<sup>1</sup> This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996.

Accordingly,

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 22) is granted;
2. Plaintiff's request for reimbursement of costs is denied without prejudice; and
3. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$2,340.00.

July 19, 2005

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge